

SENATE BILL 339

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12

2003 Regular Session
(3r1551)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senators Hogan, Astle, Della, Exum, Gladden, Hafer, Hooper, Kelley, Klausmeier, Middleton, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Debt Management Services Act**

3 FOR the purpose of prohibiting a person from providing debt management services to
4 certain consumers unless licensed by the Commissioner of Financial Regulation
5 or exempt from licensing under this Act; authorizing the Commissioner to take
6 certain actions to carry out this Act; ~~authorizing~~ requiring the Commissioner by
7 regulation to establish certain fees; establishing a certain Debt Management
8 Services Fund; establishing certain qualifications for an applicant for a license;
9 requiring an applicant to submit a certain application, pay certain fees, and file
10 a certain surety bond; requiring an applicant, ~~and a~~ licensee, and certain other
11 individuals to provide fingerprints under certain circumstances; requiring the
12 Commissioner to investigate an applicant and approve or deny each application
13 for a license within a certain period of time; requiring the Commissioner to
14 include certain information on each license; requiring a licensee that offers or
15 provides debt management services through the Internet to include a certain
16 notice on its website; providing for the renewal of a license; establishing

1 procedures for surrendering a license; specifying certain requirements for a
2 certain surety bond required under this Act; requiring a licensee to give certain
3 notices to and file certain reports with the Commissioner; requiring a licensee to
4 give certain notice to and obtain approval of the Commissioner in connection
5 with certain proposed changes; ~~establishing~~ authorizing a certain penalty for
6 failure to file certain reports; prohibiting a licensee from performing debt
7 management services for a consumer unless certain actions have been taken;
8 specifying the contents of a debt management services agreement; requiring a
9 licensee to deposit, in a certain trust account, certain funds received by the
10 licensee; prohibiting a licensee from imposing certain fees or other charges or
11 receiving certain funds or payments except under certain circumstances;
12 requiring a licensee to disclose certain services and charges to a consumer;
13 prohibiting a licensee from requiring a voluntary contribution; authorizing a
14 licensee to accept a voluntary contribution under certain circumstances;
15 providing that a debt management services agreement shall be void and the
16 licensee shall return to the consumer certain fees, charges, funds, or payments
17 under certain circumstances; providing a specific right of modification or
18 rescission for a consumer and notification within a certain period of time;
19 requiring a licensee to provide certain accountings to consumers at certain
20 times; establishing certain prohibited acts; requiring a licensee certain persons
21 to make and preserve certain books, accounts, and records for a certain period of
22 time and in a certain location and form; providing that certain government
23 officials may disclose certain information only in accordance with certain
24 provisions of law; requiring a licensee to include in any advertisement the
25 licensee's debt management services license number; authorizing the
26 Commissioner to investigate certain persons for certain purposes and to conduct
27 certain on-site examinations of a licensee; authorizing the Commissioner to
28 deny a license to an applicant, reprimand a licensee, or suspend or revoke the
29 license of a licensee under certain circumstances; requiring the Commissioner to
30 deny a license to an applicant and suspend or revoke the license of a licensee
31 under certain circumstances; requiring the Commissioner to give an applicant or
32 licensee an opportunity for a hearing under certain circumstances; authorizing
33 the Commissioner to issue certain orders, impose certain civil penalties, and file
34 certain petitions to enforce this Act; providing certain criminal penalties for
35 certain violations of this Act; providing that a consumer may bring a civil action
36 to recover for damages caused by a certain violation; establishing a certain short
37 title; establishing the scope of this Act; defining certain terms; repealing certain
38 provisions of law governing the business of debt adjusting; allowing certain
39 organizations providing debt management services in the State on the effective
40 date of this Act to continue to provide debt management services without being
41 licensed until a certain time under certain circumstances; establishing the
42 expiration date of a license issued within a certain time period; requiring the
43 Commissioner to report on certain information and recommendations to certain
44 committees of the General Assembly on or before a certain date; and generally
45 relating to the Maryland Debt Management Services Act.

46 BY repealing

47 Article - Commercial Law

1 Section 14-1316
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2002 Supplement)

4 BY adding to
5 Article - Financial Institutions
6 Section 12-901 through ~~12-930~~ 12-931, inclusive, to be under the new subtitle
7 "Subtitle 9. Maryland Debt Management Services Act"
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2002 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Commercial Law**

13 [14-1316.

14 (a) In this section, "debt adjusting" means the making of a contract, expressed
15 or implied, with a debtor and another person engaged in the debt adjusting business
16 by which the debtor agrees to pay a certain amount of money periodically to the other,
17 who for consideration distributes the money among specified creditors in accordance
18 with an agreed plan.

19 (b) A person may not engage in the business of debt adjusting.

20 (c) A person who violates this section is guilty of a misdemeanor and on
21 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
22 \$500 or both.

23 (d) This section does not apply to the following when engaged in the regular
24 course of their respective businesses and professions:

25 (1) A lawyer;

26 (2) A bank or fiduciary, authorized to transact business in this State and
27 perform credit and financial adjusting service in the regular course of its principal
28 business;

29 (3) A title insurer or abstract company, while doing an escrow business;

30 (4) A judicial officer or a person acting under a court order;

31 (5) A nonprofit, religious, fraternal, or cooperative organization that
32 offers debt management service exclusively for members, if a charge is not made and
33 a fee is not imposed;

34 (6) A certified public accountant; and

1 (7) A trade or mercantile association in the course of arranging the
2 adjustment of debts with a business establishment.]

3 **Article - Financial Institutions**

4 SUBTITLE 9. MARYLAND DEBT MANAGEMENT SERVICES ACT.

5 12-901.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) "CONSULTATION FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
9 MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF
10 ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT MANAGEMENT
11 SERVICES.

12 ~~(B)~~ (C) "CONSUMER" MEANS AN INDIVIDUAL WHO:

13 (1) RESIDES IN THE STATE; AND

14 (2) IS SEEKING DEBT MANAGEMENT SERVICES OR HAS ENTERED INTO A
15 DEBT MANAGEMENT SERVICES AGREEMENT.

16 ~~(C)~~ (D) "CONSUMER EDUCATION PROGRAM" MEANS A PROGRAM OR PLAN
17 THAT SEEKS TO IMPROVE THE FINANCIAL LITERACY OF CONSUMERS.

18 ~~(D)~~ (E) "DEBT MANAGEMENT COUNSELOR" MEANS A PERMANENT,
19 TEMPORARY, OR CONTRACTUAL EMPLOYEE OF A DEBT MANAGEMENT SERVICES
20 PROVIDER OR ITS AGENT WHO PROVIDES ~~DEBT MANAGEMENT ADVICE COUNSELING~~
21 TO CONSUMERS ON BEHALF OF THE DEBT MANAGEMENT SERVICES PROVIDER.

22 ~~(E)~~ (F) "DEBT MANAGEMENT SERVICES" MEANS:

23 (+) RECEIVING FUNDS PERIODICALLY FROM A CONSUMER UNDER AN
24 AGREEMENT WITH THE CONSUMER FOR THE PURPOSE OF DISTRIBUTING THE FUNDS
25 AMONG THE CONSUMER'S CREDITORS IN PAYMENT ~~FULL~~ OR PARTIAL PAYMENT OF
26 THE CONSUMER'S DEBTS; ~~OR,~~

27 (2) ~~SETTLING, ADJUSTING, PRORATING, POOLING, COMPROMISING, OR~~
28 ~~LIQUIDATING THE INDEBTEDNESS OF A CONSUMER.~~

29 ~~(F)~~ (G) "DEBT MANAGEMENT SERVICES AGREEMENT" MEANS A WRITTEN
30 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT MANAGEMENT SERVICES
31 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT MANAGEMENT
32 SERVICES.

33 ~~(G)~~ (H) "DEBT MANAGEMENT SERVICES PROVIDER" MEANS AN
34 ORGANIZATION THAT PROVIDES OR OFFERS TO PROVIDE DEBT MANAGEMENT
35 SERVICES TO A CONSUMER ~~IN THE STATE.~~

1 ~~(H)~~ (I) "FUND" MEANS THE DEBT MANAGEMENT SERVICES FUND
2 ESTABLISHED UNDER § 12-905 OF THIS SUBTITLE.

3 ~~(I)~~ (J) "LICENSEE" MEANS AN ORGANIZATION LICENSED UNDER THIS
4 SUBTITLE TO PROVIDE DEBT MANAGEMENT SERVICES.

5 ~~(J)~~ (K) "MAINTENANCE FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
6 MANAGEMENT SERVICES PROVIDER FOR THE MAINTENANCE OR SERVICING OF THE
7 CONSUMER'S ACCOUNTS WITH THE CONSUMER'S CREDITORS IN ACCORDANCE WITH
8 A DEBT MANAGEMENT SERVICES AGREEMENT.

9 ~~(K)~~ (L) "ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS
10 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

11 ~~(L)~~ (M) "RESIDENT AGENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE
12 OR A MARYLAND CORPORATION WHOSE NAME, ADDRESS, AND DESIGNATION AS A
13 RESIDENT AGENT ARE FILED OR RECORDED WITH THE STATE DEPARTMENT OF
14 ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE PROVISIONS OF THE
15 CORPORATIONS AND ASSOCIATIONS ARTICLE.

16 ~~(M)~~ ~~"SET UP FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
17 MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF THE
18 CONSUMER'S APPLICATION FOR DEBT MANAGEMENT SERVICES.~~

19 (N) "TRUST ACCOUNT" MEANS AN ACCOUNT THAT IS:

20 (1) ESTABLISHED IN A FINANCIAL INSTITUTION THAT IS FEDERALLY
21 INSURED;

22 (2) SEPARATE FROM THE DEBT MANAGEMENT SERVICES PROVIDER'S
23 OPERATING ACCOUNT;

24 (3) ~~IMPRESSED WITH A TRUST THAT IS FREE FROM THE TRUSTEE~~
25 PROCESS DESIGNATED AS A "TRUST ACCOUNT" OR BY ANOTHER APPROPRIATE
26 DESIGNATION INDICATING THAT THE FUNDS IN THE ACCOUNT ARE NOT THE FUNDS
27 OF THE LICENSEE OR ITS OFFICERS, EMPLOYEES, OR AGENTS;

28 (4) UNAVAILABLE TO CREDITORS OF THE DEBT MANAGEMENT
29 SERVICES PROVIDER; AND

30 (5) USED TO HOLD FUNDS PAID BY CONSUMERS TO A DEBT
31 MANAGEMENT SERVICES PROVIDER FOR DISBURSEMENT TO CREDITORS OF THE
32 CONSUMERS.

33 12-902.

34 THIS SUBTITLE DOES NOT APPLY TO:

35 (1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR
36 COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:

- 1 (I) AN ATTORNEY AT LAW;
- 2 (II) AN ESCROW AGENT;
- 3 (III) A CERTIFIED PUBLIC ACCOUNTANT;
- 4 (IV) ~~A BANK, SAVINGS AND LOAN, CREDIT UNION, OR TRUST~~
5 ~~COMPANY BANKING INSTITUTION, OTHER-STATE BANK, NATIONAL BANKING~~
6 ~~ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;~~
- 7 (V) A PERSON THAT:
- 8 1. PROVIDES BILL PAYER SERVICES, AS DEFINED IN § 12-401
9 OF THIS TITLE;
- 10 2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL
11 CREDITORS OF THE DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT
12 SCHEDULE; AND
- 13 3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;
- 14 (VI) A PERSON THAT PROVIDES ACCELERATED MORTGAGE
15 PAYMENT SERVICES, AS DEFINED IN § 12-401 OF THIS TITLE;
- 16 (VII) AN APPROVED SERVICER, AS DEFINED IN § 11-522 OF THIS
17 ARTICLE;
- 18 ~~(VIII)~~ (VIII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR
19 ABSTRACT COMPANY; OR
- 20 ~~(IX)~~ (IX) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A
21 COURT ORDER;
- 22 (2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE
23 DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR
24 OTHER BUSINESS ENTERPRISE; ~~OR~~
- 25 (3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF
26 ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT; OR
- 27 (4) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THIS ARTICLE,
28 THAT:
- 29 (I) IS LICENSED BY THE COMMISSIONER; AND
- 30 (II) DOES NOT RECEIVE FUNDS FROM A CONSUMER FOR THE
31 PURPOSE OF DISTRIBUTING THE FUNDS AMONG THE CONSUMER'S CREDITORS IN
32 PAYMENT FULL OR PARTIAL PAYMENT OF THE CONSUMER'S DEBTS.

1 12-903.

2 TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER MAY:

3 (1) ADOPT RULES AND REGULATIONS;

4 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING
5 AGREEMENTS WITH ANY OTHER FEDERAL OR STATE AGENCIES HAVING
6 SUPERVISORY RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES;
7 AND

8 (3) ~~PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY~~
9 ~~RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES WITH ANY~~
10 ~~DOCUMENTS OR OTHER INFORMATION~~ EXCHANGE INFORMATION ABOUT A DEBT
11 MANAGEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING
12 AN EXAMINATION, WITH ANY STATE OR FEDERAL AGENCY HAVING AUTHORITY OVER
13 THE DEBT MANAGEMENT SERVICES PROVIDER.

14 12-904.

15 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

16 (1) (I) A FEE, NOT EXCEEDING \$1,000 \$2,000, FOR THE ISSUANCE OF A
17 LICENSE UNDER THIS SUBTITLE IN AN EVEN-NUMBERED YEAR; AND

18 (II) A FEE, NOT EXCEEDING \$1,000, FOR THE ISSUANCE OF A
19 LICENSE UNDER THIS SUBTITLE IN AN ODD-NUMBERED YEAR;

20 (2) A FEE, NOT EXCEEDING \$1,000 \$2,000, FOR RENEWAL OF A LICENSE
21 ISSUED UNDER THIS SUBTITLE;

22 (3) A FEE, NOT EXCEEDING \$100, FOR EACH LOCATION IN THE STATE AT
23 WHICH A LICENSEE PROVIDES DEBT MANAGEMENT SERVICES UNDER THIS
24 SUBTITLE, PAYABLE AT THE TIME OF ISSUANCE OF AN INITIAL LICENSE AND AT
25 EACH RENEWAL OF A LICENSE; AND

26 (4) A FEE, NOT EXCEEDING \$1,000, FOR AN INVESTIGATION OF AN
27 APPLICANT OR LICENSEE UNDER THIS SUBTITLE.

28 (B) ANY FEES CHARGED BY THE COMMISSIONER UNDER THIS SUBTITLE
29 SHALL APPROXIMATE THE DIRECT AND INDIRECT COSTS OF ADMINISTERING AND
30 ENFORCING THIS SUBTITLE.

31 12-905.

32 (A) THERE IS A DEBT MANAGEMENT SERVICES FUND THAT CONSISTS OF:

33 (1) ALL REVENUE RECEIVED FOR THE LICENSING OF ORGANIZATIONS
34 THAT PROVIDE DEBT MANAGEMENT SERVICES UNDER THIS SUBTITLE;

1 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
2 THE FUND; AND

3 (3) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY
4 OTHER FEE OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE.

5 (B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED
6 BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE
7 STATE.

8 (C) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES
9 INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGULATION OF THE
10 DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS SUBTITLE, INCLUDING:

11 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

12 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

13 (D) (1) THE TREASURER IS THE CUSTODIAN OF THE FUND.

14 (2) THE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE
15 COMMISSIONER INTO THE FUND.

16 (E) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT
17 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY
18 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

19 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY
20 REVERT OR BE CREDITED TO:

21 (I) THE GENERAL FUND OF THE STATE; OR

22 (II) A SPECIAL FUND OF THE STATE.

23 (F) (1) ALL THE COSTS AND EXPENSES OF THE COMMISSIONER RELATING
24 TO THE REGULATION OF THE DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS
25 SUBTITLE SHALL BE INCLUDED IN THE STATE BUDGET.

26 (2) ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND
27 EXPENSES OF THE COMMISSIONER MAY BE MADE ONLY:

28 (I) BY AN APPROPRIATION FROM THE FUND APPROVED BY THE
29 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

30 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
31 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (3) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE REVENUE COLLECTED
33 BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL
34 APPROPRIATION FOR THE COMMISSIONER TO REGULATE THE DEBT MANAGEMENT

1 SERVICES BUSINESS UNDER THIS SUBTITLE, THE EXCESS AMOUNT SHALL BE
2 CARRIED FORWARD WITHIN THE FUND.

3 (G) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND
4 TRANSACTIONS OF THE FUND UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.
5 12-906.

6 A PERSON MAY NOT PROVIDE DEBT MANAGEMENT SERVICES ~~IF THAT PERSON,~~
7 ~~OR THE PERSON WITH WHOM THAT PERSON PROVIDES DEBT MANAGEMENT~~
8 ~~SERVICES, IS LOCATED IN THE STATE~~ TO CONSUMERS UNLESS THAT THE PERSON:

9 (1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE; OR

10 (2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.

11 12-907.

12 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE
13 COMMISSIONER THAT:

14 (1) THE APPLICANT IS AN ORGANIZATION;

15 (2) EACH OF THE OWNERS, OFFICERS, DIRECTORS, AND PRINCIPALS OF
16 THE APPLICANT HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL
17 RESPONSIBILITY, AND GENERAL FITNESS TO:

18 (I) ENGAGE IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
19 SERVICES;

20 (II) WARRANT THE BELIEF THAT THE DEBT MANAGEMENT
21 SERVICES BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
22 EFFICIENTLY; AND

23 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

24 (3) EACH AGENT ACTING ON BEHALF OF THE APPLICANT TO MANAGE A
25 TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS SUBTITLE HAS SUFFICIENT
26 EXPERIENCE, CHARACTER, FINANCIAL RESPONSIBILITY, AND GENERAL FITNESS TO:

27 (I) ENGAGE IN THE BUSINESS OF MANAGING A TRUST ACCOUNT;

28 (II) WARRANT THE BELIEF THAT THE MANAGEMENT OF THE TRUST
29 ACCOUNT WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY;
30 AND

31 (III) COMMAND THE CONFIDENCE OF THE PUBLIC; AND

32 (4) THE APPLICANT HAS A NET WORTH COMPUTED ACCORDING TO
33 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF AT LEAST \$50,000, PLUS AN
34 ADDITIONAL NET WORTH OF \$10,000 FOR EACH LOCATION AT WHICH DEBT

1 MANAGEMENT SERVICES WILL BE PROVIDED TO ~~THE PUBLIC CONSUMERS~~, UP TO A
2 MAXIMUM OF \$500,000 AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

3 (B) THE COMMISSIONER MAY REQUIRE A NET WORTH OF UP TO \$500,000,
4 SUBJECT TO A CONSIDERATION OF THE FOLLOWING:

5 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
6 BUSINESS OF THE APPLICANT;

7 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
8 THE APPLICANT;

9 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
10 CONTINGENT LIABILITIES, OF THE APPLICANT;

11 (4) THE HISTORY OF AND PROSPECTS FOR THE APPLICANT TO EARN
12 AND RETAIN INCOME;

13 (5) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;

14 (6) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;

15 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
16 THE APPLICANT; AND

17 (8) ANY OTHER FACTOR THAT THE COMMISSIONER CONSIDERS
18 RELEVANT.

19 12-908.

20 (A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE
21 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER
22 PROVIDES.

23 (B) THE APPLICATION SHALL INCLUDE:

24 (1) THE APPLICANT'S NAME, BUSINESS ADDRESS, TELEPHONE NUMBER,
25 ELECTRONIC MAIL ADDRESS, IF ANY, AND WEBSITE ADDRESS, IF ANY;

26 (2) THE ADDRESS OF EACH LOCATION IN THE STATE AT WHICH THE
27 APPLICANT WILL PROVIDE DEBT MANAGEMENT SERVICES;

28 (3) THE NAME AND ADDRESS OF EACH OWNER, OFFICER, DIRECTOR,
29 AND PRINCIPAL OF THE APPLICANT;

30 (4) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
31 APPLICANT'S RESIDENT AGENT IN THE STATE;

32 (5) A DESCRIPTION OF THE OWNERSHIP INTEREST OF ANY OFFICER,
33 DIRECTOR, AGENT, OR EMPLOYEE OF THE APPLICANT IN ANY AFFILIATE OR
34 SUBSIDIARY OF THE APPLICANT OR IN ANY OTHER BUSINESS ENTITY THAT

1 PROVIDES ANY SERVICE TO THE APPLICANT OR ANY CONSUMER RELATING TO THE
2 APPLICANT'S DEBT MANAGEMENT SERVICES BUSINESS;

3 (6) THE NAME AND ADDRESS OF ANY AGENT ACTING ON BEHALF OF THE
4 APPLICANT TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS
5 SUBTITLE;

6 (7) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION NUMBER;

7 (8) A LIST OF ANY STATE IN WHICH:

8 (I) THE APPLICANT ENGAGES IN THE BUSINESS OF PROVIDING
9 DEBT MANAGEMENT SERVICES;

10 (II) THE APPLICANT IS REGISTERED OR LICENSED TO PROVIDE
11 DEBT MANAGEMENT SERVICES; AND

12 (III) THE APPLICANT'S REGISTRATION OR LICENSE HAS BEEN
13 SUSPENDED OR REVOKED;

14 (9) A STATEMENT OF WHETHER ANY PENDING JUDGMENT, TAX LIEN,
15 MATERIAL LITIGATION, OR ADMINISTRATIVE ACTION BY ANY GOVERNMENT AGENCY
16 EXISTS AGAINST THE APPLICANT;

17 (10) THE MOST RECENT, UNCONSOLIDATED FINANCIAL STATEMENT OF
18 THE APPLICANT THAT:

19 (I) IS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
20 ACCOUNTING PRINCIPLES APPLIED ON A CONSISTENT BASIS;

21 (II) INCLUDES A CERTIFIED OPINION AUDIT PREPARED BY AN
22 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND

23 (III) WAS PREPARED NO MORE THAN 12 MONTHS BEFORE THE DATE
24 OF APPLICATION;

25 (11) EVIDENCE OF NONPROFIT STATUS UNDER § 501(C) OF THE INTERNAL
26 REVENUE CODE;

27 (12) IF THE APPLICANT IS A CORPORATION, A DETAILED DESCRIPTION OF
28 THE APPLICANT'S CORPORATE STRUCTURE, INCLUDING PARENT COMPANIES,
29 SUBSIDIARIES, AND AFFILIATES;

30 (13) THE APPLICANT'S BUSINESS CREDIT REPORT;

31 (14) EVIDENCE OF GENERAL LIABILITY OR FIDELITY INSURANCE
32 ~~COVERAGE THAT RUNS TO THE STATE TO BE USED FOR THE BENEFIT OF ANY~~
33 ~~CONSUMER INJURED AS A RESULT OF THE~~ THAT INSURES AGAINST DISHONESTY,
34 FRAUD, THEFT, OR OTHER MALFEASANCE ON THE PART OF AN EMPLOYEE OF THE
35 APPLICANT;

1 (15) A DESCRIPTION OF THE APPLICANT'S CONSUMER EDUCATION
2 PROGRAM THAT IS PROVIDED TO CONSUMERS;

3 (16) A DESCRIPTION OF THE APPLICANT'S *FINANCIAL ANALYSIS AND*
4 ~~FINANCIAL ANALYSIS~~ INITIAL BUDGET PLAN, *INCLUDING ANY FORM OR*
5 *ELECTRONIC MODEL*, THAT IS ~~ARE~~ USED TO EVALUATE THE ~~FINANCIAL CONDITION~~
6 ~~DEBT OBLIGATIONS~~ *FINANCIAL CONDITION* OF CONSUMERS;

7 (17) A COPY OF THE DEBT MANAGEMENT SERVICES AGREEMENT THAT
8 THE APPLICANT WILL USE IN ITS DEBT MANAGEMENT SERVICES BUSINESS;

9 (18) A COPY OF THE APPLICANT'S PLAN TO ENSURE THAT EACH DEBT
10 MANAGEMENT COUNSELOR ~~EMPLOYED BY THE APPLICANT~~ IS CERTIFIED BY AN
11 INDEPENDENT ORGANIZATION WITHIN 6 MONTHS AFTER THE DEBT MANAGEMENT
12 COUNSELOR IS HIRED, AND THAT ANY EMPLOYEE WHO IS A SUPERVISOR OR
13 MANAGER OF A DEBT MANAGEMENT COUNSELOR IS CERTIFIED BY AN
14 INDEPENDENT ORGANIZATION WITHIN 3 MONTHS AFTER THE EMPLOYEE IS HIRED;
15 AND

16 (19) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
17 REQUIRES.

18 (C) THE COMMISSIONER MAY REFUSE AN APPLICATION IF IT CONTAINS
19 ERRONEOUS OR INCOMPLETE INFORMATION.

20 (D) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
21 COMMISSIONER:

22 (1) A LICENSE FEE IN THE AMOUNT ESTABLISHED UNDER § 12-904 OF
23 THIS SUBTITLE; AND

24 (2) A NONREFUNDABLE INVESTIGATION FEE IN THE AMOUNT
25 ESTABLISHED UNDER § 12-904 OF THIS SUBTITLE.

26 (E) WITH THE APPLICATION, THE APPLICANT SHALL FILE A SURETY BOND
27 WITH THE COMMISSIONER AS PROVIDED IN § 12-914 OF THIS SUBTITLE.

28 12-909.

29 (A) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL
30 APPLICATION, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN
31 APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL
32 BUREAU OF INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION
33 SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
34 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

35 (B) AN APPLICANT OR LICENSEE REQUIRED TO PROVIDE FINGERPRINTS
36 UNDER THIS SECTION SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

1 (C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
2 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
3 APPLY TO THE PRESIDENT AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR
4 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

5 (D) THE COMMISSIONER ~~MAY~~ SHALL REQUIRE ANY AGENT ACTING ON
6 BEHALF OF A LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917
7 OF THIS SUBTITLE, AND ANY AGENT OF THE LICENSEE WHO HAS ACCESS TO THE
8 ACCOUNT, TO PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF
9 INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM
10 CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
11 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

12 12-910.

13 (A) AFTER AN APPLICANT FOR A LICENSE FILES A COMPLETE APPLICATION,
14 FILES A SURETY BOND, AND PAYS THE LICENSE AND INVESTIGATION FEES
15 REQUIRED UNDER THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE
16 FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS
17 THE REQUIREMENTS OF THIS SUBTITLE.

18 (B) UNLESS THE COMMISSIONER NOTIFIES AN APPLICANT THAT A
19 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
20 DENY EACH APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE ON
21 WHICH THE COMPLETE APPLICATION IS FILED, THE SURETY BOND IS FILED, AND
22 THE FEES ARE PAID.

23 (C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT THAT
24 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

25 (D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS
26 SUBTITLE, THE COMMISSIONER:

27 (I) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS
28 SUBTITLE, SHALL DENY THE APPLICATION;

29 (II) SHALL NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

30 (III) SHALL REFUND THE LICENSE FEE; AND

31 (IV) SHALL KEEP THE INVESTIGATION FEE.

32 (2) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN
33 APPLICATION, THE COMMISSIONER SHALL STATE THE REASONS FOR THE DENIAL IN
34 WRITING AND MAIL THEM TO THE APPLICANT AT THE ADDRESS LISTED IN THE
35 APPLICATION.

36 12-911.

37 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

- 1 (1) THE NAME OF THE LICENSEE;
- 2 (2) THE ADDRESS AT WHICH THE BUSINESS IS TO BE CONDUCTED; AND
- 3 (3) THE DEBT MANAGEMENT SERVICES LICENSE NUMBER OF THE
4 LICENSEE.

5 (B) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE DEBT MANAGEMENT
6 SERVICES.

7 (C) A LICENSE MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

8 (D) (1) IF THE LICENSEE HAS AN OFFICE IN THE STATE, THE LICENSEE
9 SHALL PROMINENTLY DISPLAY THE LICENSE IN A LOCATION THAT IS OPEN TO THE
10 PUBLIC AND AT WHICH THE LICENSEE ENGAGES IN THE BUSINESS OF PROVIDING
11 DEBT MANAGEMENT SERVICES.

12 (2) IF THE LICENSEE DOES NOT MAINTAIN AN OFFICE IN THE STATE,
13 THE LICENSEE SHALL MAINTAIN THE LICENSE IN THE LICENSEE'S HEADQUARTERS.

14 (E) A LICENSEE THAT OFFERS OR PROVIDES DEBT MANAGEMENT SERVICES
15 THROUGH THE INTERNET SHALL INCLUDE THE FOLLOWING NOTICE ON ITS
16 WEBSITE:

17 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
18 MARYLAND WILL ACCEPT ANY QUESTIONS AND COMPLAINTS FROM MARYLAND
19 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
20 SERVICES PROVIDER) AT (ADDRESS OF COMMISSIONER), PHONE (TOLL-FREE
21 NUMBER OF THE COMMISSIONER)".

22 12-912.

23 (A) A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 OF
24 EACH ODD-NUMBERED YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS
25 PROVIDED IN SUBSECTION (B) OF THIS SECTION.

26 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE
27 MAY BE RENEWED FOR A 2-YEAR TERM IF THE LICENSEE:

28 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

29 (2) PAYS TO THE COMMISSIONER THE RENEWAL FEE ESTABLISHED
30 UNDER § 12-904 OF THIS SUBTITLE;

31 (3) FILES WITH THE COMMISSIONER A SURETY BOND RENEWAL
32 CERTIFICATE OR A NEW SURETY BOND REQUIRED UNDER § 12-914 OF THIS
33 SUBTITLE; AND

34 (4) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
35 FORM THAT THE COMMISSIONER REQUIRES.

1 (C) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER
2 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

3 12-913.

4 (A) (1) A LICENSEE MAY SURRENDER A LICENSE BY SENDING TO THE
5 COMMISSIONER A WRITTEN STATEMENT THAT THE LICENSE IS SURRENDERED.

6 (2) THE STATEMENT SHALL PROVIDE:

7 (I) THE REASON FOR THE LICENSE SURRENDER;

8 (II) FOR EACH CONSUMER ~~LOCATED IN THE STATE~~ FOR WHOM THE
9 LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES, THE FOLLOWING
10 INFORMATION:

11 1. THE NAME OF THE CONSUMER;

12 2. THE TOTAL AMOUNT OF FUNDS HELD BY THE LICENSEE
13 FOR DISTRIBUTION TO THE CONSUMER'S CREDITORS; AND

14 3. THE NAME OF EACH CREDITOR OF THE CONSUMER THAT
15 IS RECEIVING PAYMENTS FROM THE LICENSEE FOR DEBTS OWED BY THE
16 CONSUMER TO THE CREDITOR, AND THE OUTSTANDING BALANCE OWED TO EACH
17 CREDITOR.

18 (B) THE SURRENDER OF A LICENSE DOES NOT:

19 (1) AFFECT ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL LIABILITY OF
20 THE LICENSEE FOR ACTS COMMITTED BEFORE THE LICENSE IS SURRENDERED;

21 (2) AFFECT THE SURETY BOND REQUIRED UNDER § 12-914 OF THIS
22 SUBTITLE; OR

23 (3) ENTITLE THE LICENSEE TO THE RETURN OF ANY FEE PAID TO THE
24 COMMISSIONER UNDER § 12-904 OF THIS SUBTITLE.

25 12-914.

26 (A) WITH THE APPLICATION FOR A NEW OR RENEWAL LICENSE, THE
27 APPLICANT OR LICENSEE SHALL FILE A SURETY BOND OR BOND RENEWAL
28 CERTIFICATE WITH THE COMMISSIONER AS PROVIDED IN THIS SECTION.

29 (B) (1) A SURETY BOND FILED UNDER THIS SECTION SHALL RUN TO THE
30 STATE FOR THE BENEFIT OF ANY ~~INDIVIDUAL WHO RESIDES IN THE STATE AND~~
31 CONSUMER WHO HAS BEEN IS INJURED BY A VIOLATION OF THIS SUBTITLE OR A
32 REGULATION ADOPTED UNDER THIS SUBTITLE COMMITTED BY A LICENSEE OR AN
33 AGENT OF A LICENSEE, INCLUDING AN AGENT MANAGING A TRUST ACCOUNT.

34 (2) ~~THE SURETY BOND SHALL PROVIDE THAT, IF THE LICENSEE FAILS~~
35 ~~TO DISTRIBUTE TO THE CREDITORS OF A CONSUMER THE AMOUNTS REQUIRED~~

1 ~~UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT, THE COMMISSIONER~~
 2 ~~SHALL HAVE, IN ADDITION TO ALL OTHER LEGAL REMEDIES, A RIGHT OF ACTION IN~~
 3 ~~THE NAME OF THE CONSUMER TO RECOVER LOSSES SUSTAINED BY THE CONSUMER,~~
 4 ~~NOT EXCEEDING THE FACE AMOUNT OF THE SURETY BOND, WITHOUT THE~~
 5 ~~NECESSITY OF JOINING THE CONSUMER IN THE ACTION.~~

6 ~~(3)~~ (2) THE SURETY BOND SHALL BE:

7 (I) IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN
 8 ~~\$1,000,000~~ ~~\$250,000~~ \$350,000, AS SET BY THE COMMISSIONER;

9 (II) ISSUED BY A BONDING, SURETY, OR INSURANCE COMPANY
 10 THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

11 (III) CONDITIONED SO THAT THE LICENSEE AND ITS AGENT SHALL
 12 COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE
 13 BUSINESS OF PROVIDING DEBT MANAGEMENT SERVICES.

14 ~~(4)~~ (3) THE LIABILITY OF A SURETY:

15 (I) IS NOT AFFECTED BY THE INSOLVENCY OR BANKRUPTCY OF
 16 THE LICENSEE OR ITS AGENT OR BY ANY MISREPRESENTATION, BREACH OF
 17 WARRANTY, FAILURE TO PAY A PREMIUM, OR OTHER ACT OR OMISSION OF THE
 18 LICENSEE OR ITS AGENT; AND

19 (II) CONTINUES AS TO ALL TRANSACTIONS OF THE LICENSEE, AND
 20 TRANSACTIONS OF ITS AGENT ON BEHALF OF THE LICENSEE, FOR NO LONGER THAN
 21 2 YEARS AFTER THE LICENSEE CEASES, FOR ANY REASON, TO BE LICENSED.

22 ~~(5)~~ (4) THE COMMISSIONER MAY ALLOW THE AMOUNT OF THE
 23 SURETY BOND TO BE REDUCED IF THE AMOUNT OF THE LICENSEE'S OUTSTANDING
 24 DEBT MANAGEMENT SERVICES LIABILITIES IN THE STATE IS REDUCED.

25 ~~(6)~~ (5) IN SETTING THE AMOUNT OF THE SURETY BOND, THE
 26 COMMISSIONER SHALL CONSIDER:

27 (I) THE FINANCIAL CONDITION AND BUSINESS EXPERIENCE OF
 28 THE APPLICANT OR LICENSEE AND THE AGENT OF THE APPLICANT OR LICENSEE;

29 (II) FOR AN APPLICANT, THE PROJECTED MONTHLY AND ANNUAL
 30 VOLUME OF DEBT MANAGEMENT SERVICES TO BE PROVIDED IN THE STATE;

31 (III) FOR A LICENSEE, THE AVERAGE MONTHLY AND ANNUAL
 32 VOLUME OF DEBT MANAGEMENT SERVICES PROVIDED IN THE STATE DURING THE
 33 PREVIOUS 12-MONTH PERIOD;

34 (IV) THE POTENTIAL LOSS TO CONSUMERS WHO REMIT FUNDS TO
 35 THE APPLICANT OR LICENSEE IF THE APPLICANT OR LICENSEE BECOMES
 36 FINANCIALLY IMPAIRED; AND

1 (V) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
2 APPROPRIATE.

3 (C) IF THE PRINCIPAL AMOUNT OF A SURETY BOND IS REDUCED BY PAYMENT
4 OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE WITH THE COMMISSIONER
5 ANY NEW OR ADDITIONAL SURETY BOND IN THE AMOUNT THAT THE COMMISSIONER
6 SETS.

7 (D) THE COMMISSIONER MAY WAIVE THE SURETY BOND REQUIREMENT
8 UNDER THIS SECTION IF THE COMMISSIONER DETERMINES THAT THE VOLUME OF
9 DEBT MANAGEMENT SERVICES PROVIDED BY THE APPLICANT OR LICENSEE DOES
10 NOT WARRANT THE NEED FOR A SURETY BOND.

11 (E) A PENALTY IMPOSED UNDER § 12-928 OR § 12-929 OF THIS SUBTITLE MAY
12 BE PAID AND COLLECTED FROM THE PROCEEDS OF A SURETY BOND REQUIRED
13 UNDER THIS SECTION.

14 12-915.

15 (A) (1) A LICENSEE SHALL GIVE THE COMMISSIONER WRITTEN NOTICE OF
16 ANY CHANGE IN THE INFORMATION REQUIRED TO BE INCLUDED IN THE LICENSEE'S
17 APPLICATION UNDER § 12-908(B)(1) AND (2) OF THIS SUBTITLE WITHIN ~~40~~ 30 DAYS
18 ~~AFTER~~ BEFORE THE CHANGE IS EFFECTIVE.

19 (2) THE LICENSEE SHALL PROVIDE WITH THE NOTICE EVIDENCE THAT,
20 AFTER THE CHANGE DESCRIBED IN THE NOTICE, THE LICENSEE WILL CONTINUE TO
21 SATISFY THE SURETY BOND REQUIREMENT UNDER § 12-914 OF THIS TITLE.

22 (B) UNLESS APPROVED BY THE COMMISSIONER, A LICENSEE MAY NOT
23 CHANGE AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE LICENSEE, OR AN
24 AGENT WHO IS ACTING ON BEHALF OF THE LICENSEE TO MANAGE A TRUST
25 ACCOUNT, LISTED ON THE LICENSEE'S APPLICATION UNDER § 12-908(B)(3) AND (6) OF
26 THIS SUBTITLE.

27 (C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN
28 SUBSECTION (B) OF THIS SECTION, THE LICENSEE SHALL NOTIFY THE
29 COMMISSIONER IN WRITING OF THE PROPOSED CHANGE AND SUBMIT ANY
30 INFORMATION THAT THE COMMISSIONER REQUIRES.

31 (2) FOR A PROPOSED CHANGE IN OWNER OR AGENT ACTING ON BEHALF
32 OF THE LICENSEE TO MANAGE A TRUST ACCOUNT, THE COMMISSIONER MAY
33 DETERMINE THAT THE FILING OF A NEW APPLICATION FOR THE ISSUANCE OF A
34 LICENSE IS WARRANTED.

35 (3) UNLESS THE COMMISSIONER NOTIFIES THE LICENSEE THAT A
36 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
37 DENY A REQUEST FOR A CHANGE DESCRIBED IN SUBSECTION (B) OF THIS SECTION
38 WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER RECEIVES ALL INFORMATION
39 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 12-916.

2 (A) (I) A LICENSEE MAY NOT PERFORM DEBT MANAGEMENT SERVICES FOR
3 A CONSUMER UNLESS:

4 ~~(+)~~ (I) THE LICENSEE ~~HAS PROVIDED~~ PROVIDES THE CONSUMER
5 WITH A CONSUMER EDUCATION PROGRAM;

6 ~~(=)~~ (II) THE LICENSEE, THROUGH A DEBT MANAGEMENT SERVICES
7 COUNSELOR CERTIFIED BY AN INDEPENDENT ORGANIZATION, HAS:

8 ~~(+)~~ I. PREPARED A FINANCIAL ANALYSIS OF AND A FINANCIAL
9 ANALYSIS OF AN INITIAL BUDGET PLAN FOR THE CONSUMER'S DEBT OBLIGATIONS;
10 ~~AND~~

11 ~~(+)~~ 2. PROVIDED A COPY OF THE FINANCIAL ANALYSIS AND THE
12 FINANCIAL ANALYSIS INITIAL BUDGET PLAN TO THE CONSUMER; AND

13 3. PROVIDED TO THE CONSUMER, FOR ALL CREDITORS
14 IDENTIFIED BY THE CONSUMER, A LIST OF:

15 A. THE CREDITORS THAT THE LICENSEE REASONABLY
16 EXPECTS TO PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER'S DEBT UNDER
17 THE DEBT MANAGEMENT SERVICES AGREEMENT; AND

18 B. THE CREDITORS THAT THE LICENSEE REASONABLY
19 EXPECTS NOT TO PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER'S DEBT
20 UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;

21 ~~(=)~~ (III) THE LICENSEE AND THE CONSUMER HAVE EXECUTED A DEBT
22 MANAGEMENT SERVICES AGREEMENT THAT DESCRIBES THE DEBT MANAGEMENT
23 SERVICES TO BE PROVIDED BY THE LICENSEE TO THE CONSUMER;

24 ~~(+)~~ (IV) THE LICENSEE HAS ~~ESTABLISHED AN AGREEMENT, WITH A~~
25 ~~GOOD FAITH BELIEF REASONABLE EXPECTATION BASED ON THE LICENSEE'S PAST~~
26 EXPERIENCE THAT EACH CREDITOR OF THE CONSUMER THAT IS LISTED AS A
27 PARTICIPATING CREDITOR IN THE CONSUMER'S DEBT MANAGEMENT SERVICES
28 AGREEMENT, FOR THE WILL ACCEPT PAYMENT OF THE CONSUMER'S DEBTS OWED
29 TO THE CREDITOR AS PROVIDED IN THE CONSUMER'S DEBT MANAGEMENT SERVICES
30 AGREEMENT; AND

31 ~~(=)~~ (V) A COPY OF THE COMPLETED DEBT MANAGEMENT SERVICES
32 AGREEMENT HAS BEEN PROVIDED TO THE CONSUMER.

33 (2) (I) A LICENSEE MAY PROVIDE TO A CONSUMER THE MATERIALS
34 REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION USING THE INTERNET IF:

35 1. A DEBT MANAGEMENT COUNSELOR OF THE LICENSEE
36 HAS REVIEWED AND APPROVED THE COMPUTER PROGRAM OR APPLICATION USED
37 TO CREATE THE FINANCIAL ANALYSIS AND INITIAL BUDGET PLAN; AND

1 (VIII) ~~1.~~ A LIST OF:

2 1. A. EACH PARTICIPATING CREDITOR OF THE CONSUMER

3 TO WHICH PAYMENTS WILL BE MADE UNDER THE DEBT MANAGEMENT SERVICES

4 AGREEMENT;

5 ~~2.~~ B. THE AMOUNT OWED TO EACH CREDITOR; AND

6 ~~3.~~ C. A SCHEDULE OF PAYMENTS THAT THE DEBT

7 MANAGEMENT SERVICES PROVIDER ~~MUST~~ WILL MAKE TO EACH PARTICIPATING

8 CREDITOR ~~FROM THE CONSUMER'S PAYMENTS, INCLUDING THE AMOUNT AND DATE~~

9 OF EACH PAYMENT AND THE DATE ON WHICH EACH PAYMENT WILL BE MADE; AND

10 2. EACH CREDITOR THAT THE LICENSEE REASONABLY

11 EXPECTS NOT TO PARTICIPATE IN THE MANAGEMENT OF THE CONSUMER'S DEBT

12 UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT;

13 (IX) A DISCLOSURE THAT THE LICENSEE ALSO MAY RECEIVE

14 COMPENSATION FROM THE CONSUMER'S CREDITORS FOR PROVIDING DEBT

15 MANAGEMENT SERVICES TO THE CONSUMER;

16 (X) A DISCLOSURE THAT THE LICENSEE MAY NOT, AS A CONDITION

17 OF ENTERING INTO A DEBT MANAGEMENT SERVICES AGREEMENT, REQUIRE A

18 CONSUMER TO PURCHASE FOR A FEE A COUNSELING SESSION, AN EDUCATIONAL

19 PROGRAM, OR MATERIALS AND SUPPLIES;

20 (XI) A DISCLOSURE THAT THE LICENSEE MAY NOT REQUIRE A

21 VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY

22 THE LICENSEE TO THE CONSUMER;

23 ~~(X)~~ ~~(XI)~~ (XII) A DISCLOSURE THAT, BY EXECUTING THE DEBT

24 MANAGEMENT SERVICES AGREEMENT, THE CONSUMER AUTHORIZES ANY

25 FINANCIAL INSTITUTION IN WHICH THE LICENSEE HAS ESTABLISHED A TRUST

26 ACCOUNT FOR DEPOSIT OF THE CONSUMER'S FUNDS TO DISCLOSE TO THE

27 COMMISSIONER ANY FINANCIAL RECORDS RELATING TO THE TRUST ACCOUNT

28 DURING THE COURSE OF ANY INVESTIGATION OR EXAMINATION OF THE LICENSEE

29 BY THE COMMISSIONER;

30 ~~(XI)~~ ~~(XII)~~ (XIII) A DISCLOSURE THAT EXECUTION OF A DEBT

31 MANAGEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT

32 RATING AND CREDIT SCORES; AND

33 ~~(XII)~~ ~~(XIII)~~ (XIV) THE FOLLOWING NOTICE:

34 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF

35 MARYLAND WILL ACCEPT QUESTIONS AND COMPLAINTS FROM MARYLAND

36 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT

37 SERVICE PROVIDER) AT (ADDRESS OF THE COMMISSIONER) PHONE (TOLL-FREE

38 NUMBER OF THE COMMISSIONER). DO NOT SIGN THIS AGREEMENT BEFORE YOU

39 READ IT. YOU MUST BE GIVEN A COPY OF THIS AGREEMENT."

1 (C) A DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN A CONSUMER
 2 AND A PERSON THAT IS NOT A LICENSEE UNDER THIS SUBTITLE SHALL BE NULL AND
 3 VOID, AND ALL FEES PAID TO THE PERSON UNDER THE DEBT MANAGEMENT
 4 SERVICES AGREEMENT SHALL BE RECOVERABLE BY THE CONSUMER, TOGETHER
 5 WITH REASONABLE ATTORNEY'S FEES.

6 12-917.

7 (A) WITHIN 2 BUSINESS DAYS AFTER RECEIPT, A LICENSEE SHALL DEPOSIT,
 8 IN A TRUST ACCOUNT ESTABLISHED FOR THE BENEFIT OF ~~THE CONSUMER~~
 9 CONSUMERS, ANY FUNDS PAID TO THE LICENSEE BY OR ON BEHALF OF A CONSUMER
 10 FOR DISBURSEMENT TO THE CONSUMER'S CREDITORS.

11 (B) A LICENSEE SHALL:

12 (1) MAINTAIN SEPARATE RECORDS OF ACCOUNT FOR EACH CONSUMER
 13 TO WHOM THE LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES;

14 (2) DISBURSE ANY FUNDS PAID BY OR ON BEHALF OF A CONSUMER TO
 15 THE CONSUMER'S CREDITORS WITHIN ~~5~~ 8 BUSINESS DAYS AFTER RECEIPT OF THE
 16 FUNDS; AND

17 (3) (I) CORRECT ANY MISDIRECTED PAYMENTS RESULTING FROM AN
 18 ERROR BY THE LICENSEE; AND

19 (II) REIMBURSE THE CONSUMER FOR ANY ACTUAL FEES OR OTHER
 20 CHARGES IMPOSED BY A CREDITOR AS A RESULT OF THE MISDIRECTION.

21 (C) A LICENSEE MAY NOT COMMINGLE ANY TRUST ACCOUNT ESTABLISHED
 22 FOR THE BENEFIT OF CONSUMERS WITH ANY OPERATING ACCOUNTS OF THE
 23 LICENSEE.

24 12-918.

25 (A) WITH RESPECT TO THE PROVISION OF DEBT MANAGEMENT SERVICES, A
 26 LICENSEE MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A CONSUMER, OR
 27 RECEIVE ANY FUNDS OR OTHER PAYMENTS FROM A CONSUMER OR ANOTHER
 28 PERSON ON BEHALF OF A CONSUMER:

29 (1) EXCEPT AS PROVIDED IN SUBSECTIONS ~~(G)(2)~~ (G)(3) AND ~~(H)~~ (I) OF
 30 THIS SECTION, UNTIL AFTER THE LICENSEE AND CONSUMER HAVE EXECUTED A
 31 DEBT MANAGEMENT SERVICES AGREEMENT; AND

32 (2) ONLY AS ALLOWED UNDER THIS SECTION.

33 (B) (1) A LICENSEE MAY CHARGE A ~~SET-UP~~ CONSULTATION FEE NOT
 34 EXCEEDING \$50.

35 (2) THE COST OF A CREDIT REPORT ON A CONSUMER SHALL BE PAID
 36 FROM THE ~~SET-UP~~ CONSULTATION FEE PAID BY THE CONSUMER.

1 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LICENSEE MAY
 2 CHARGE A MONTHLY MAINTENANCE FEE NOT EXCEEDING ~~\$5 FOR EACH CREDITOR~~
 3 ~~OF A CONSUMER THAT IS 10% OF THE TOTAL AMOUNT PAYABLE EACH MONTH TO~~
 4 ~~THE CONSUMER'S CREDITORS \$8 FOR EACH CREDITOR OF A CONSUMER THAT IS~~
 5 LISTED IN THE DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
 6 LICENSEE AND THE CONSUMER.

7 (2) THE TOTAL FEES CHARGED TO A CONSUMER UNDER PARAGRAPH (1)
 8 OF THIS SUBSECTION MAY NOT EXCEED ~~\$50~~ \$40 PER MONTH.

9 (D) A LICENSEE MAY COLLECT FROM OR ON BEHALF OF A CONSUMER THE
 10 FUNDS THE CONSUMER HAS AGREED TO PAY TO THE LICENSEE UNDER THE DEBT
 11 MANAGEMENT SERVICES AGREEMENT.

12 (E) A LICENSEE MAY NOT CHARGE A FEE TO:

13 (1) PREPARE A FINANCIAL ANALYSIS OR AN INITIAL BUDGET PLAN FOR
 14 THE CONSUMER;

15 ~~(1)~~ (2) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;

16 ~~(2)~~ (3) PROVIDE A CONSUMER WITH ~~A~~ THE CONSUMER EDUCATION
 17 PROGRAM DESCRIBED IN THE LICENSEE'S LICENSE APPLICATION; OR

18 ~~(3)~~ (4) ~~CANCEL~~ RESCIND A DEBT MANAGEMENT SERVICES
 19 AGREEMENT.

20 (F) (1) A LICENSEE MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM
 21 A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER.

22 (2) A LICENSEE MAY ACCEPT A VOLUNTARY CONTRIBUTION FROM A
 23 CONSUMER FOR ANY A DEBT MANAGEMENT SERVICE PROVIDED BY THE LICENSEE
 24 TO THE CONSUMER IF THE AGGREGATE AMOUNT OF THE VOLUNTARY
 25 CONTRIBUTION AND ANY OTHER FEES RECEIVED BY THE LICENSEE FROM THE
 26 CONSUMER FOR DEBT MANAGEMENT SERVICES DOES NOT EXCEED THE TOTAL
 27 AMOUNT THE LICENSEE IS AUTHORIZED TO CHARGE THE CONSUMER UNDER
 28 SUBSECTIONS (B) AND (C) OF THIS SECTION.

29 (G) (1) BEFORE PROVIDING DEBT MANAGEMENT SERVICES TO A
 30 CONSUMER, A LICENSEE SHALL PROVIDE THE CONSUMER A LIST OF SERVICES AND
 31 THEIR CHARGES DESCRIBING:

32 (1) THOSE SERVICES THAT THE LICENSEE OFFERS:

33 1. FREE OF CHARGE IF THE CONSUMER ENTERS INTO A
 34 DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE; AND

35 2. FOR A CHARGE IF THE CONSUMER DOES NOT ENTER INTO
 36 A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE; AND

1 (II) THOSE SERVICES THAT THE LICENSEE OFFERS FOR A CHARGE
 2 THAT ARE NOT OFFERED AS A PART OF DEBT MANAGEMENT SERVICES.

3 (2) A LICENSEE MAY NOT, AS A CONDITION OF ENTERING INTO A DEBT
 4 MANAGEMENT SERVICES AGREEMENT, REQUIRE A CONSUMER TO PURCHASE FOR A
 5 FEE A COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND
 6 SUPPLIES.

7 ~~(2)~~ (3) A LICENSEE MAY CHARGE A CONSUMER A FEE FOR A
 8 COUNSELING SESSION, AN EDUCATIONAL PROGRAM, OR MATERIALS AND SUPPLIES
 9 IF THE CONSUMER DOES NOT ENTER INTO A DEBT MANAGEMENT SERVICES
 10 AGREEMENT WITH THE LICENSEE.

11 (H) (1) IN ADDITION TO ANY OTHER RIGHT OF RESCISSION CONTAINED IN
 12 THE DEBT MANAGEMENT SERVICES AGREEMENT, A CONSUMER MAY MODIFY OR
 13 RESCIND A DEBT MANAGEMENT SERVICES AGREEMENT IF THE CONSUMER IS
 14 NOTIFIED OF A CREDITOR'S NONPARTICIPATION UNDER THIS SUBSECTION.

15 (2) IF A CREDITOR THAT IS LISTED AS PARTICIPATING IN THE DEBT
 16 MANAGEMENT SERVICES AGREEMENT DECLINES TO PARTICIPATE IN DEBT
 17 MANAGEMENT SERVICES UNDER THE AGREEMENT, THE LICENSEE SHALL NOTIFY
 18 THE CONSUMER BY CERTIFIED MAIL, OR OTHER VERIFIABLE MEANS APPROVED BY
 19 THE CONSUMER, AT LEAST 5 BUSINESS DAYS BEFORE THE CONSUMER'S NEXT
 20 SCHEDULED PAYMENT UNDER THE AGREEMENT.

21 (3) THE NOTICE SHALL INCLUDE:

22 (I) THE IDENTITY OF THE CREDITOR; AND

23 (II) THE RIGHT OF THE CONSUMER TO MODIFY OR RESCIND THE
 24 AGREEMENT.

25 (4) A CONSUMER WHO RESCINDS A DEBT MANAGEMENT SERVICES
 26 AGREEMENT UNDER THIS SUBSECTION IS ENTITLED TO A REFUND OF ALL
 27 UNEXPENDED FUNDS THAT THE CONSUMER HAS PAID TO THE LICENSEE FOR THE
 28 REDUCTION OF THE CONSUMER'S DEBT.

29 ~~(H)~~ (I) IF A PAYMENT BY A CONSUMER UNDER THIS SECTION TO A
 30 LICENSEE IS DISHONORED, THE LICENSEE MAY CHARGE THE CONSUMER THE
 31 AMOUNT ALLOWABLE FOR DISHONORED CHECKS OR OTHER INSTRUMENTS UNDER §
 32 15-802 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE CONSUMER HAS
 33 ENTERED INTO A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE.

34 ~~(F)~~ ~~(G)~~ (J) WITH RESPECT TO THE PROVISION OF DEBT MANAGEMENT
 35 SERVICES, IF A LICENSEE IMPOSES ANY FEE OR OTHER CHARGE OR RECEIVES ANY
 36 FUNDS OR OTHER PAYMENTS NOT AUTHORIZED UNDER THIS SECTION, EXCEPT AS A
 37 RESULT OF AN ACCIDENTAL AND BONA FIDE ERROR:

38 (1) THE DEBT MANAGEMENT SERVICES AGREEMENT SHALL BE VOID;
 39 AND

1 (2) THE LICENSEE SHALL RETURN THE AMOUNT OF THE
2 UNAUTHORIZED FEES, CHARGES, FUNDS, OR PAYMENTS TO THE CONSUMER.

3 12-919.

4 (A) A LICENSEE SHALL PROVIDE TO EACH CONSUMER WITH WHOM THE
5 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT A WRITTEN
6 ACCOUNTING OF:

7 (1) THE AMOUNT OF FUNDS RECEIVED FROM THE CONSUMER FOR
8 PAYMENT TO THE CONSUMER'S CREDITORS SINCE THE LAST REPORT; AND

9 (2) THE AMOUNTS AND DATES OF DISBURSEMENTS MADE TO EACH
10 CREDITOR OF THE CONSUMER SINCE THE LAST REPORT.

11 (B) A LICENSEE SHALL PROVIDE THE ACCOUNTING REQUIRED UNDER
12 SUBSECTION (A) OF THIS SECTION:

13 (1) AT LEAST ONCE DURING EACH CALENDAR QUARTER; AND

14 (2) ON CANCELLATION OR TERMINATION OF THE DEBT MANAGEMENT
15 SERVICES AGREEMENT.

16 12-920.

17 (A) A LICENSEE MAY NOT:

18 (1) PURCHASE ANY DEBT OR OBLIGATION OF A CONSUMER;

19 (2) LEND MONEY OR PROVIDE CREDIT TO A CONSUMER;

20 (3) OBTAIN A MORTGAGE OR OTHER SECURITY INTEREST IN PROPERTY
21 OWNED BY A CONSUMER;

22 (4) OPERATE AS A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE
23 BUSINESS REGULATION ARTICLE;

24 (5) STRUCTURE A DEBT MANAGEMENT SERVICES AGREEMENT IN A
25 MANNER THAT WOULD RESULT IN A NEGATIVE AMORTIZATION OF ANY OF THE
26 CONSUMER'S DEBTS;

27 (6) ~~ENGAGE IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING~~
28 ~~ABOUT THE TERMS AND CONDITIONS OF ANY SERVICE OR ASSISTANCE OFFERED TO~~
29 ~~CONSUMERS MAKE ANY FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS OR~~
30 ~~OMISSIONS OF MATERIAL INFORMATION IN CONNECTION WITH THE OFFER, SALE, OR~~
31 ~~PERFORMANCE OF ANY SERVICE;~~

32 (7) OFFER, PAY, OR GIVE A SUBSTANTIAL GIFT, BONUS, PREMIUM,
33 REWARD, OR OTHER COMPENSATION TO A PERSON FOR REFERRING A PROSPECTIVE
34 CUSTOMER TO THE LICENSEE;

1 (8) OFFER AN INCENTIVE, INCLUDING A GIFT, BONUS, PREMIUM,
2 REWARD, OR OTHER COMPENSATION, TO A CONSUMER FOR EXECUTING A DEBT
3 MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;

4 (9) CHARGE FOR OR PROVIDE CREDIT INSURANCE; OR

5 (10) COMPROMISE ANY DEBTS OF A CONSUMER UNLESS THE LICENSEE
6 HAS OBTAINED THE PRIOR WRITTEN APPROVAL OF THE CONSUMER, AND THE
7 COMPROMISE ~~INURES SOLELY TO THE BENEFIT OF~~ BENEFITS THE CONSUMER.

8 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, A
9 LICENSEE MAY NOT, DIRECTLY OR INDIRECTLY, COLLECT ANY FEE FOR REFERRING,
10 ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN OBTAINING ANY
11 EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A LENDER OR SERVICE
12 PROVIDER IF THE LICENSEE, OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, OR
13 EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER, DIRECTOR, OFFICER, OR
14 EMPLOYEE OF THE LENDER OR SERVICE PROVIDER UNLESS:

15 ~~(I) THE LICENSEE HAS OBTAINED PRIOR APPROVAL OF THE~~
16 ~~COMMISSIONER; AND~~

17 ~~(II) THE CONSUMER IS PROVIDED WITH A WRITTEN DISCLOSURE~~
18 ~~OF THE RELATIONSHIP.~~

19 (2) THIS SUBSECTION DOES NOT PROHIBIT A LICENSEE FROM
20 REFERRING, ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN
21 OBTAINING ANY EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A
22 LENDER OR SERVICE PROVIDER OF WHICH THE LICENSEE, OR ANY OWNER, OFFICER,
23 DIRECTOR, PRINCIPAL, OR EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER,
24 DIRECTOR, OFFICER, OR EMPLOYEE, IF:

25 (I) THE LICENSEE DOES NOT DIRECTLY OR INDIRECTLY COLLECT
26 ANY FEE; AND

27 (II) THE CONSUMER IS PROVIDED WITH A WRITTEN DISCLOSURE
28 OF THE RELATIONSHIP.

29 12-921.

30 (A) (1) ON OR BEFORE APRIL 30 OF EACH YEAR, A LICENSEE SHALL REPORT
31 TO THE COMMISSIONER ON THE DEBT MANAGEMENT SERVICES BUSINESS OF THE
32 LICENSEE CONDUCTED DURING THE PRECEDING CALENDAR YEAR.

33 (2) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE
34 COMMISSIONER REQUIRES.

35 (3) THE REPORT SHALL INCLUDE:

36 (I) AN AUDITED FINANCIAL STATEMENT THAT IS PREPARED IN
37 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND

1 INCLUDES A BALANCE SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN
2 FUND BALANCES, AND STATEMENT OF CASH FLOW;

3 (II) AN ALPHABETICAL LIST OF ALL DEBT MANAGEMENT
4 COUNSELORS ~~EMPLOYED BY~~ WHO PROVIDED SERVICES FOR THE LICENSEE DURING
5 THE PREVIOUS CALENDAR YEAR;

6 (III) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR WHOM THE
7 LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT MANAGEMENT
8 SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

9 (IV) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ WHO SIGNED NEW
10 DEBT MANAGEMENT SERVICES AGREEMENTS WITH THE LICENSEE DURING THE
11 PRECEDING CALENDAR YEAR;

12 (V) THE HIGHEST NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR
13 WHOM THE LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT
14 MANAGEMENT SERVICES AGREEMENT DURING ANY MONTH IN THE PRECEDING
15 CALENDAR YEAR; AND

16 (VI) THE AMOUNTS PAID BY CONSUMERS ~~IN THE STATE~~ TO THE
17 LICENSEE, BOTH IN TOTAL AND FOR EACH MONTH, DURING THE PRECEDING
18 CALENDAR YEAR, BROKEN DOWN BY:

- 19 1. PAYMENTS TO BE DISBURSED TO CREDITORS; AND
- 20 2. PAYMENTS FOR THE LICENSEE'S SERVICES.

21 (B) (1) WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE
22 FOLLOWING EVENTS, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE
23 COMMISSIONER DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE
24 LICENSEE'S ACTIVITIES IN THE STATE:

25 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
26 LICENSEE;

27 (II) THE INSTITUTION OF A REVOCATION OR SUSPENSION
28 PROCEEDING AGAINST THE LICENSEE BY A GOVERNMENTAL AUTHORITY THAT IS
29 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS IN ANY
30 STATE;

31 (III) A FELONY INDICTMENT OR CONVICTION OF THE LICENSEE, OR
32 ANY OF ITS OFFICERS ~~OR~~ DIRECTORS, OR DEBT MANAGEMENT COUNSELORS, THAT
33 IS RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS;

34 (IV) THE COMMENCEMENT OF A CIVIL ACTION BY A CONSUMER
35 AGAINST THE LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR
36 DEBT MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
37 MANAGEMENT SERVICES BUSINESS; ~~AND~~

1 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE
2 LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR DEBT
3 MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
4 MANAGEMENT SERVICES BUSINESS; AND

5 (VI) A LIST OF ALL THIRD-PARTY VENDORS AND OTHER SERVICE
6 PROVIDERS THAT THE LICENSEE USED IN PROVIDING DEBT MANAGEMENT
7 SERVICES AT ANY TIME IN THE PRECEDING CALENDAR YEAR.

8 (2) THE WRITTEN REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION SHALL BE SENT TO THE COMMISSIONER BY CERTIFIED MAIL, RETURN
10 RECEIPT REQUESTED, AND INCLUDE DETAILS SUFFICIENT TO IDENTIFY THE EVENT.

11 (C) THE COMMISSIONER MAY REQUIRE ANY OTHER REPORTS FROM A
12 LICENSEE THAT THE COMMISSIONER CONSIDERS NECESSARY.

13 (D) IF A LICENSEE FAILS TO MAKE ANY REPORT REQUIRED BY THIS SUBTITLE,
14 ~~THE LICENSEE SHALL PAY TO THE COMMISSIONER~~ MAY REQUIRE THE LICENSEE TO
15 PAY \$25 A SURCHARGE NOT EXCEEDING \$50 FOR EACH DAY THAT THE REPORT IS
16 OVERDUE.

17 12-922.

18 (A) TO ENABLE THE COMMISSIONER TO DETERMINE COMPLIANCE WITH THIS
19 SUBTITLE, A LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,
20 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST ~~5~~ 3 YEARS:

21 (1) A GENERAL LEDGER CONTAINING ALL ASSETS, LIABILITY, CAPITAL,
22 INCOME, AND EXPENSE ACCOUNTS;

23 (2) EACH DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
24 LICENSEE AND A CONSUMER;

25 (3) BOOKS AND RECORDS FOR EACH CONSUMER WITH WHOM THE
26 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT; AND

27 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS.

28 (B) A LICENSEE MAY RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
29 REQUIRED UNDER THIS SECTION AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

30 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
31 THE BOOKS, ACCOUNTS, AND RECORDS; AND

32 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
33 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE LICENSEE,
34 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
35 COMMISSIONER.

1 (C) A LICENSEE SHALL RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
2 REQUIRED UNDER THIS SECTION IN:

3 (1) ORIGINAL FORM; OR

4 (2) PHOTOGRAPHIC, ELECTRONIC, OR OTHER SIMILAR FORM APPROVED
5 BY THE COMMISSIONER.

6 (D) IF THE COMMISSIONER FINDS THAT THE BOOKS, ACCOUNTS, AND
7 RECORDS OF THE LICENSEE ARE INSUFFICIENT TO DETERMINE COMPLIANCE WITH
8 THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO HAVE A
9 CERTIFIED PUBLIC ACCOUNTANT AUDIT THE LICENSEE, AT THE LICENSEE'S
10 EXPENSE, FOR ANY PERIOD OF TIME THAT THE COMMISSIONER CONSIDERS
11 NECESSARY.

12 (E) (1) A LICENSEE SHALL KEEP ALL BOOKS, ACCOUNTS, AND RECORDS
13 RELATING TO A CONSUMER CONFIDENTIAL, AND MAY NOT DISCLOSE ANY
14 INFORMATION ABOUT A CONSUMER EXCEPT TO A DULY AUTHORIZED GOVERNMENT
15 OFFICIAL, THE CONSUMER, OR THE CONSUMER'S REPRESENTATIVE.

16 (2) A DULY AUTHORIZED GOVERNMENT OFFICIAL MAY DISCLOSE
17 INFORMATION OBTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY IN
18 ACCORDANCE WITH TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

19 (F) THE REQUIREMENTS OF THIS SECTION ALSO APPLY TO BOOKS,
20 ACCOUNTS, AND RECORDS IN THE POSSESSION OF A SUBSIDIARY, AFFILIATE, OR
21 OTHER PERSON THAT RELATE TO THE OPERATION OF AND SERVICES PROVIDED BY
22 THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS.

23 12-923.

24 (A) TO DISCOVER ANY VIOLATIONS OF THIS SUBTITLE OR TO OBTAIN ANY
25 INFORMATION REQUIRED BY THIS SUBTITLE, THE COMMISSIONER AT ANY TIME MAY
26 INVESTIGATE THE BUSINESS OF:

27 (1) A LICENSEE;

28 (2) A PERSON THAT IS ENGAGED OR PARTICIPATING IN THE BUSINESS
29 OF PROVIDING DEBT MANAGEMENT SERVICES; AND

30 (3) ANY OTHER PERSON THAT THE COMMISSIONER HAS CAUSE TO
31 BELIEVE IS VIOLATING THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
32 SUBTITLE, WHETHER THAT PERSON CLAIMS TO BE WITHIN OR BEYOND THE SCOPE
33 OF THIS SUBTITLE.

34 (B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

35 (1) SHALL BE GIVEN ACCESS TO THE PLACE OF BUSINESS, BOOKS,
36 PAPERS, RECORDS, SAFES, AND VAULTS OF THE PERSON UNDER INVESTIGATION;
37 AND

1 (2) MAY SUMMON AND EXAMINE UNDER OATH ANY PERSON WHOSE
2 TESTIMONY THE COMMISSIONER REQUIRES.

3 (C) IF, AFTER AN INVESTIGATION CONDUCTED UNDER THIS SUBSECTION,
4 THE COMMISSIONER FINDS THAT THE PERSON THAT WAS INVESTIGATED VIOLATED
5 THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE PERSON
6 ~~BEING INVESTIGATED~~ SHALL PAY ALL REASONABLY INCURRED COSTS OF ~~AN~~ THE
7 INVESTIGATION ~~CONDUCTED UNDER THIS SECTION.~~

8 (D) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF
9 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY
10 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS
11 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE
12 CIRCUIT COURT FOR ANY COUNTY.

13 (2) ON PETITION BY THE COMMISSIONER, THE COURT MAY ORDER THE
14 PERSON TO ATTEND AND TESTIFY OR PRODUCE EVIDENCE.

15 12-924.

16 (A) THE COMMISSIONER MAY CONDUCT AN ON-SITE EXAMINATION OF A
17 LICENSEE WITH OR WITHOUT PRIOR NOTICE.

18 (B) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS ~~OF~~
19 DIRECTLY RELATED TO AN EXAMINATION CONDUCTED UNDER THIS SECTION,
20 INCLUDING THE TRAVEL EXPENSES, LODGING EXPENSES, AND A PER DIEM FOR
21 EXAMINERS.

22 (C) AN ON-SITE EXAMINATION MAY BE CONDUCTED IN CONJUNCTION WITH
23 AN EXAMINATION PERFORMED BY A REPRESENTATIVE OF A RESPONSIBLE
24 SUPERVISORY AGENCY OF ANOTHER STATE.

25 (D) (1) THE COMMISSIONER, IN LIEU OF AN ON-SITE EXAMINATION, MAY
26 ACCEPT THE EXAMINATION REPORT OF A RESPONSIBLE SUPERVISORY AGENCY OF
27 ANOTHER STATE.

28 (2) A REPORT ACCEPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS
29 CONSIDERED FOR ALL PURPOSES AS AN OFFICIAL REPORT OF THE COMMISSIONER.

30 (E) THE COMMISSIONER MAY:

31 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THAT THE
32 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
33 EXAMINATION, INCLUDING THE BOOKS, ACCOUNTS, AND RECORDS IN THE
34 POSSESSION OF A SUBSIDIARY, AFFILIATE, OR OTHER PERSON THAT RELATE TO THE
35 OPERATION OF AND SERVICES PROVIDED BY THE LICENSEE'S DEBT MANAGEMENT
36 SERVICES BUSINESS; AND

1 (2) EXAMINE UNDER OATH ANY OWNER, OFFICER, DIRECTOR,
2 PRINCIPAL, AND EMPLOYEE OF THE LICENSEE OR ANY OTHER INDIVIDUAL WHO MAY
3 PROVIDE INFORMATION ON BEHALF OF THE LICENSEE.

4 12-925.

5 A LICENSEE SHALL INCLUDE IN ANY ADVERTISEMENT THE LICENSEE'S DEBT
6 MANAGEMENT SERVICES LICENSE NUMBER.

7 12-926.

8 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND
9 SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE, THE
10 COMMISSIONER MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE,
11 OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR
12 LICENSEE OR AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR
13 LICENSEE:

14 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
15 OBTAIN A LICENSE;

16 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR DEBT
17 MANAGEMENT SERVICES LICENSE NUMBER;

18 (3) PRESENTS OR ATTEMPTS TO PRESENT THE DEBT MANAGEMENT
19 SERVICES LICENSE NUMBER OF ANOTHER LICENSEE AS THE APPLICANT'S OR
20 LICENSEE'S DEBT MANAGEMENT SERVICES LICENSE NUMBER;

21 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION
22 ADOPTED UNDER THIS SUBTITLE;

23 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
24 STATE OF:

25 (I) A FELONY; OR

26 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
27 AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ENGAGE IN THE BUSINESS
28 OF PROVIDING DEBT MANAGEMENT SERVICES;

29 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
30 SERVICES:

31 (I) COMMITS A FRAUD;

32 (II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;

33 (III) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND
34 ACT; OR

1 (IV) MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO
2 A PERSON ENTITLED TO THAT INFORMATION;

3 (7) ENGAGES IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING; OR

4 (8) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
5 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
6 APPLICANT OR LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY,
7 FAIRLY, AND EQUITABLY.

8 (B) IN DETERMINING WHETHER TO DENY A LICENSE TO AN APPLICANT,
9 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE FOR
10 A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE COMMISSIONER
11 SHALL CONSIDER:

12 (1) THE NATURE OF THE CRIME;

13 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
14 BY THE LICENSE;

15 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
16 TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE
17 DEBT MANAGEMENT SERVICES;

18 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

19 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE
20 SINCE THE CONVICTION.

21 (C) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE,
22 THE COMMISSIONER SHALL DENY A LICENSE TO AN APPLICANT AND SUSPEND OR
23 REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR LICENSEE OR AN
24 OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR LICENSEE HAS:

25 (1) COMMITTED A VIOLATION OF SUBSECTION (A) OF THIS SECTION
26 THAT DIRECTLY RESULTS IN PROPERTY DAMAGE OR MONETARY LOSS BY ANY
27 OTHER PERSON; AND

28 (2) HAS NOT RESTORED THE PROPERTY OR MONEY TO THE PERSON OR
29 PAID THE VALUE OF THE PROPERTY TO THE PERSON.

30 12-927.

31 (A) BEFORE THE COMMISSIONER DENIES AN APPLICATION FOR A LICENSE
32 UNDER § 12-910 OF THIS SUBTITLE OR TAKES ANY ACTION UNDER § 12-926 OF THIS
33 SUBTITLE, THE COMMISSIONER SHALL GIVE THE APPLICANT OR LICENSEE AN
34 OPPORTUNITY FOR A HEARING.

1 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE
 2 HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
 3 ARTICLE.

4 12-928.

5 ~~(A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE~~
 6 ~~BY ISSUING AN ORDER REQUIRING THE VIOLATOR TO:~~

7 ~~(1) CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER~~
 8 ~~SIMILAR VIOLATIONS; AND~~

9 ~~(2) TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION,~~
 10 ~~INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED~~
 11 ~~BY THE VIOLATION.~~

12 ~~(B) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER~~
 13 ~~SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL~~
 14 ~~PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING~~
 15 ~~\$5,000 FOR EACH SUBSEQUENT VIOLATION FROM WHICH THE VIOLATOR FAILED TO~~
 16 ~~CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE~~
 17 ~~ACTION.~~

18 (A) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS
 19 SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE BY:

20 (I) ISSUING AN ORDER REQUIRING THE VIOLATOR:

21 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY
 22 FURTHER SIMILAR VIOLATIONS; AND

23 2. TO TAKE AFFIRMATIVE ACTION TO CORRECT THE
 24 VIOLATION INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON
 25 AGGRIEVED BY THE VIOLATION; AND

26 (II) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH
 27 VIOLATION.

28 (2) AN ORDER ISSUED UNDER THIS SUBSECTION MAY APPLY TO A
 29 LICENSEE'S AGENT THAT VIOLATES ANY PROVISION OF THIS SUBTITLE OR THE
 30 REGULATIONS ADOPTED UNDER THIS SUBTITLE.

31 ~~(2)~~ (3) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED
 32 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A
 33 CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION FROM WHICH THE
 34 VIOLATOR FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO
 35 TAKE CORRECTIVE AFFIRMATIVE ACTION.

1 ~~(E)~~ (B) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT
 2 FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS
 3 SECTION.

4 ~~(D)~~ (C) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE
 5 IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL
 6 CONSIDER THE FOLLOWING:

7 (1) THE SERIOUSNESS OF THE VIOLATION;

8 (2) THE GOOD FAITH OF THE VIOLATOR;

9 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

10 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

11 (5) THE ASSETS OF THE VIOLATOR; AND

12 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
 13 FINANCIAL PENALTY.

14 12-929.

15 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
 16 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
 17 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
 18 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
 19 BOTH.

20 12-930.

21 IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN THIS SUBTITLE, A
 22 CONSUMER MAY BRING A CIVIL ACTION TO RECOVER FOR ANY DAMAGES CAUSED BY
 23 A VIOLATION OF THIS SUBTITLE, INCLUDING COURT COSTS AND REASONABLE
 24 ATTORNEY'S FEES.

25 ~~12-930.~~ 12-931.

26 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT MANAGEMENT
 27 SERVICES ACT.

28 SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an
 29 order by the Commissioner of Financial Regulation to the contrary, an organization
 30 providing debt management services ~~in the State to Maryland consumers~~ on the
 31 effective date of this Act may continue to provide debt management services ~~in the~~
 32 ~~State to Maryland consumers~~ without being licensed, as required under Section 1 of
 33 this Act, until the Commissioner approves or disapproves the organization's
 34 application for a license if:

35 (a) the organization applies for a license no later than 60 days after the date
 36 the Commissioner makes license applications available; and

1 (b) the organization complies with all other provisions of this Act.

2 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding §
3 12-912(a) of the Financial Institutions Article, as enacted by Section 1 of this Act, a
4 license issued on or after October 1, 2003, and on or before December 31, 2003,
5 expires on December 31, 2005, unless it is renewed for a 2-year term as provided in
6 § 12-912(b) of the Financial Institutions Article, as enacted by Section 1 of this Act.

7 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1,
8 2004, the Commissioner of Financial Regulation shall report, in accordance with §
9 2-1246 of the State Government Article, to the Senate Finance Committee and the
10 House Economic Matters Committee on the number of licenses that the
11 Commissioner has issued under this Act and any recommendations for changes to the
12 Maryland Debt Management Services Act, as enacted by Section 1 of this Act.

13 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect October 1, 2003.